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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/923,737	08/06/2001	Michael C. Fischer	HP-10981124	2129	
7590	07/27/2005	EXAMINER			
ORTIZ CRIADO, JORGE L					
		ART UNIT	PAPER NUMBER	2655	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/923,737	FISCHER ET AL.
	Examiner	Art Unit
	Jorge L. Ortiz-Criado	2655

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The feature determining a delay offset “without requiring utilization of a boundary delineating any individual bits of data” cannot be found described in the specification, as filed, nor can it be found in the specific references to paragraphs “[004]” and “[0020]” and Figure 2 as asserted by Applicant in the amendment of 12/13/2004. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The examiner cannot ascertain/map where in the specification including detailed description and the drawings, support is found as to enable one skilled in the art as to How obtain

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such determining of delay offset “without requiring utilization of a boundary delineating any individual bits of data”, as claimed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1,6,11 and 16 are rejected under 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Claims 1,6,11 and 16 recite the limitation “any individual bits of data”. The term “data” renders the claim indefinite because it is ambiguous whether the “data” is one of the “previously recorded data”, “test data” or “new data”. What particularly is the “data”, as claimed?

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Taussig U.S. Patent No. 6,636,467.

Regarding claim 1 and 16, Taussig discloses a disk-based data storage system, a method for synchronizing newly recorded data with previously recorded data (See col. 2, lines 11-28), comprising:

measuring a first difference between a wobble reference signal and a read clock of previously recorded data (See col. 2, lines 11-28; col. 5, lines 47-57; Fig. 5-530); writing test data on a test track to measure a second difference between the wobble reference signal and the test data, the test data written synchronous with a write clock (See col. 5, lines 58-63; Fig. 5-540,542)

determining a delay offset by comparing the first difference and the second difference using the wobble reference signal, such that an appropriate delay offset is calculated utilizing only said wobble reference signal, said read clock of previously recorded data and said test data without requiring utilization of a boundary delineating the individual bits of data; and writing new data using the write clock and the delay offset such that the new data is synchronized with the previously recorded data (See col. 5, line 64 to col. 6 line 21; Fig. 5-544,546,548,550; col. 7, line 31 to col. 8, line 24; Figure 7)

Regarding claim 2, Taussig discloses writing the test data to the test track (See col. 5, lines 58-63; Fig. 5-540,542)

with the delay offset set to zero (See col. 5, lines 36-45);

reading the test data from the test track; subtracting the first difference from the second difference to determine the delay offset for the write clock calibration delay (See col. 5, line 58 to col. 6 line 21; Fig. 5-544,546,548,550)

Regarding claim 3, Taussig discloses inserting the delay offset into a wobble-to-laser path to cause the new data to have a same epoch as the previously recorded data (See col. 5, line 64 to col. 6 line 21; Fig. 5-548).

Regarding claim 4, Taussig discloses the step of checking whether an error value is within predetermined limits, wherein the error value is the difference between the first difference the second difference (See col. 5, line 64 to col. 6 line 21; Fig. 5-544,546,548,550).

Regarding claim 5, Taussig discloses adjusting the write clock in accordance with the error value, if the error value is outside the predetermined limits (See col. 5, line 64 to col. 6 line 21; Fig. 5-548).

Regarding claims 6-10 and 11-15, apparatus claims 6-10 and 11-15 are drawn to apparatus for performing the corresponding method claims 1-5 and 16. Therefore claims 6-10 and 11-15 correspond to the method claims 1-5 and 16 and are rejected for the same reasons of anticipation as outlined above.

Response to Arguments

7. Applicant's arguments filed 05/16/2005 have been fully considered but they are not persuasive.

In regard to Applicant's response to the rejection of claims 1-16, as unpatentable over Taussig, Applicants argues that Taussig does not disclose or suggest determining a delay offset by using the wobble reference signal, such that an appropriate delay offset is calculated utilizing only, said wobble reference signal, said read clock of previously recorded data and said test data without requiring a utilization of a boundary delineating the individual bits of data

The feature determining a delay offset "**without requiring a measurement of a boundary delineating any individual bits of data**" cannot be found described specification. The claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (In re Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)

The Examiner disagrees with applicants assertion, because Taussig measures a first difference/(time offset/ phase difference) between a wobble reference signal (1)", which is the signal outputted from clock channel "484" in Fig. 4b (See col. 5, lines 17-21, lines 52-54; Fig. 4b) and a read clock of previously recorded data (2) ("calibration data sequence"), which is "data previously recorded" on the disk, is then read from the data channel "482" in Fig. 4b, and the first difference/(time offset/ phase difference) between a wobble reference signal and the read clock of previously recorded data/("calibration data sequence previously") is obtained, in steps "520" to "530" of Fig. 5, (See col. 5, lines 35-57),

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Tausig measures writes test data on a test track to measure a second difference between the wobble reference signal (1) and the test data (3), the test data written synchronous with a write clock (See col. 5, lines 58-63; Fig. 5-540,542)

And, determines a delay offset by comparing the **first difference** and the **second difference**, utilizing only three signals measurements,

- (1) the wobble reference signal
- (2) the read clock of previously recorded data
- (3) the clock of the test data

hence, without requiring a measurement of a boundary delineating any individual bits of data, as described in col. 5, line 64 to col. 6 line 21; Fig. 5-544,546,548,550; col. 7, line 31 to col. 8, line 24; Figure 7)

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L. Ortiz-Criado whose telephone number is (571) 272-7624. The examiner can normally be reached on Mon.-Thu.(8:30 am - 6:00 pm),Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne R. Young can be reached on (571) 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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W. R. YOUNG
PRIMARY EXAMINER